

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2004-547

August 25, 2004

CENTRAL MAINE POWER COMPANY
Request for Approval of Power Purchase
Agreement of Benton Falls PPA Settlement
& Finding of Prudence and Request for
Protective Order

PROCEDURAL ORDER

On August 13, 2004, Central Maine Power Company (CMP) filed a request for Commission approval of a proposed settlement of a power purchase agreement (PPA) dispute with Benton Falls Associates. As part of the approval, CMP also seeks a finding that it was prudent in connection with its management and proposed settlement of the litigation with Benton Falls. The proposed settlement is contingent on a Commission order approving the settlement, including a finding that CMP acted prudently in managing the dispute and in agreeing to the settlement.

The Commission recently opened a formal investigation in order to determine whether CMP's rates must be changed, effective March 1, 2005, to reflect changes in its "adjustable stranded costs." *Investigation into Central Maine Power Company's Stranded Cost Revenue Requirements and Rates, Notice of Investigation*, Docket No. 2004-339 (June 2, 2004). In its initial filing in Docket No. 2004-339, CMP included the revenue requirement related to the proposed Benton Falls settlement payment. CMP proposed to amortize the settlement payment over the approximate remaining contract term of three years.

The Commission is not required by statute to approve the proposed settlement of the dispute concerning the CMP-Benton Falls PPA. The prudence finding, that CMP seeks in addition to Commission approval, is essentially the same as demonstrating that CMP has reasonably mitigated its stranded costs associated with the Benton Falls PPA, that the Commission must consider before setting stranded cost rates in Docket No. 2004-339. Thus it would appear that CMP's request for approval and finding of prudence really should be made part as part of the stranded cost investigation.

However, so that CMP's Benton Falls-related request can be decided before the stranded cost investigation will be concluded, we will process CMP's request as a separate proceeding. This separate proceeding will be treated like it is a sub-docket to the stranded cost investigation. Therefore, we will not issue a Notice of Proceeding and seek new petitions to intervene. Instead, we will make the service list for Docket No. 2004-339 the service list for this proceeding and make all parties to the stranded cost proceeding parties to this docket. Parties are of course free to participate as little or as much as they desire in this separate proceeding.

A technical conference will be held in this docket on **Wednesday, September 15, 2004 at 1:30 p.m.** The purpose of the technical conference will be to allow the Advisors and parties the opportunity to question CMP representatives about its litigation strategy and its reasons for entering into the settlement agreement.

The Examiner notes that the settlement agreement appears to contemplate that Benton Falls will intervene in this Commission proceeding. If Benton Falls desires to intervene in this proceeding, then Benton Falls must file a petition to intervene before the day of the technical conference. If Benton Falls does petition to intervene, the Examiner will rule upon that intervention at the beginning of the technical conference.

Dated at Augusta, Maine, this 25th day of August, 2004.

BY ORDER OF THE HEARING EXAMINER

James A. Buckley